



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable H. A. Hodges
County Auditor
Williamson County
Georgetown, Texas

Dear Sir:

Opinion No. 0-3841

Re: Does the county or district clerk have the legal authority to invest the trust fund of any person or persons in securities of the United States Government?

If no, is it contingent upon the agreement of the Judges of the courts from which the funds were ordered placed in trust?

Your letter of July 5, 1941, requesting an opinion of this department upon the above stated questions has been received.

We quote from your letter as follows:

"Will you kindly render me an opinion relative to the investments of the Trust Funds in charge of the County and District Clerks?

"1. Does the County or District Clerk have the legal authority to invest the trust fund of any person, or persons, in securities of the U. S. Government?

"2. If in your opinion the Clerks have this right is it contingent upon the agreement of the Judges of the Courts from which the funds were ordered placed in trust?

"In many instances the funds belong to minors and it will be many years before they will get

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control of the funds, thus no increase in the principal as the Banks do not pay interest on the deposits, but if invested in government securities there would be an increase by interest accruals, thus be a financial benefit."

Section 4 of Article 2558a, Vernon's Annotated Civil Statutes, provides as follows:

"As soon as said depository has qualified as provided by law and has been approved by the Commissioners Court, said Court shall make and enter an order upon the minutes, designating such banking corporation, association, or individual banker as County Depository for Trust Funds until the designation and qualification of a successor, and thereupon it shall be the duty of the County and District Clerks of such county to deposit all Trust Funds in their possession with said depository in the manner hereinafter provided; provided, in the event, a new depository has not been selected and qualified by April 15th succeeding the term of Court at which a depository is required to be selected as required by this Act, then the term of such depository shall end and all Trust Funds due or on deposit shall be paid to the Clerk in whose name the account is carried."

Your attention is further directed to the various other sections of Article 2558a, supra, regarding the transfer of funds to a new depository, withdrawal of deposits by check, duty to deposit Trust Fund account, and various other provisions regarding various conditions as set forth in such chapter.

We do not think that Section 1 and Section 1a of Article 842a, Vernon's Annotated Civil Statutes, authorize the district and county clerks to invest the trust funds in their possession in the various securities mentioned therein. We have made a careful search of the statutes and have failed to find any statute authorizing the district and county clerks to invest the trust funds in their possession in any securities of the United States Government or any other securities of any other nature. We do not think that a district

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clerk or a county clerk has any power to invest trust funds which are in his possession unless such power has been expressly or impliedly conferred upon him by the laws of this State. Therefore, we respectfully answer your first question in the negative.

As we have answered your first question in the negative, your second question becomes moot and requires no answer.

Trusting that the foregoing fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED JUL 16, 1941

Howe Allen

DEPUTY ASSISTANT
ATTORNEY GENERAL

By *Ardell Williams*

Ardell Williams
Assistant

AW:GO

